

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 26.09.2016

CORAM

THE HONOURABLE Mr.JUSTICE T.S.SIVAGNANAM

WP.No.33783 of 2016 & WMP No.29147 of 2016

P. Subramani

..Petitioner

Vs

1. The Joint Commissioner,
H.R & C.E.Department,
Villupuram.

2. The Assistant Commissioner,
H.R. & C.E.Department,
Tiruvannamalai.

3. Arulmigu Mariamman Temple,
Rep.by fit Person,
Eraiyur Village, Chengam Taluk,
Tiruvannamalai District.

4. The Tahsildar,
Chengam Taluk,
Tiruvannamalai District.

... Respondents

Writ petition filed under Article 226 of the Constitution of India to issue an order or direction more in the nature of the Writ or Certiorari calling for the records of the 1st respondent in his Notice Rc.No.7397/2015/C2/dated 27.11.2015 and quash the same.

For Petitioner : Mr.B.Jawahar

For RR 1 to 3 :Mr.M.Maharaja

Spl. Government Pleader [HR&CE]

For R4 :Mr.A.N.Thambi Durai

Spl. Government Pleader

ORDER

Heard Mr.B.Jawahar, learned counsel appearing for the petitioner ; Mr.M.Maharaja, learned Special Government Pleader [HR&CE] accepting notice on behalf of the respondents 1 to 3 and Mr.A.N.Thambi Durai, learned Special Government Pleader accepting notice on behalf of the 4th respondent and with the

consent on either side, the writ petition is taken up for final disposal.

2 The petitioner has filed this writ petition challenging the notice issued by the 1st respondent dated 27.11.2015 invoking the powers under section 78[2] of the Tamil Nadu Hindu Religious and Charitable Endowment Act, calling upon the petitioner as to why he should not be thrown out of the property in question comprised in S.No.86, Eraiyur Village, Chengam Taluk, Tiruvannamalai District, as the property is a temple site.

3 In the impugned notice, the petitioner has been termed as an "encroacher". The petitioner is said to have responded to the notice and appeared before the 1st respondent on 30.12.2015. After about nearly a year, the petitioner is before this Court stating that the 1st respondent should not proceed further and he has got no jurisdiction to do so, since the land is a Government land. However, this is the subject matter of enquiry to be conducted by the 1st respondent and for that reason, the impugned show cause notice cannot be quashed, that too, after such a long period of time.

4 Accordingly, the prayer sought for by the petitioner to quash the impugned show cause notice is rejected and the writ petition stands dismissed and the matter is remanded to the 1st respondent for fresh consideration, who shall fix a fresh date for hearing and on the said date, the petitioner will be heard and the 1st respondent shall also direct the revenue records to be produced from the office of the Tahsildar, Chengam Taluk and thereafter pass appropriate orders on merits and in accordance with law. No costs. Consequently, the connected miscellaneous petition is also dismissed.

Sd/-

Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

AP

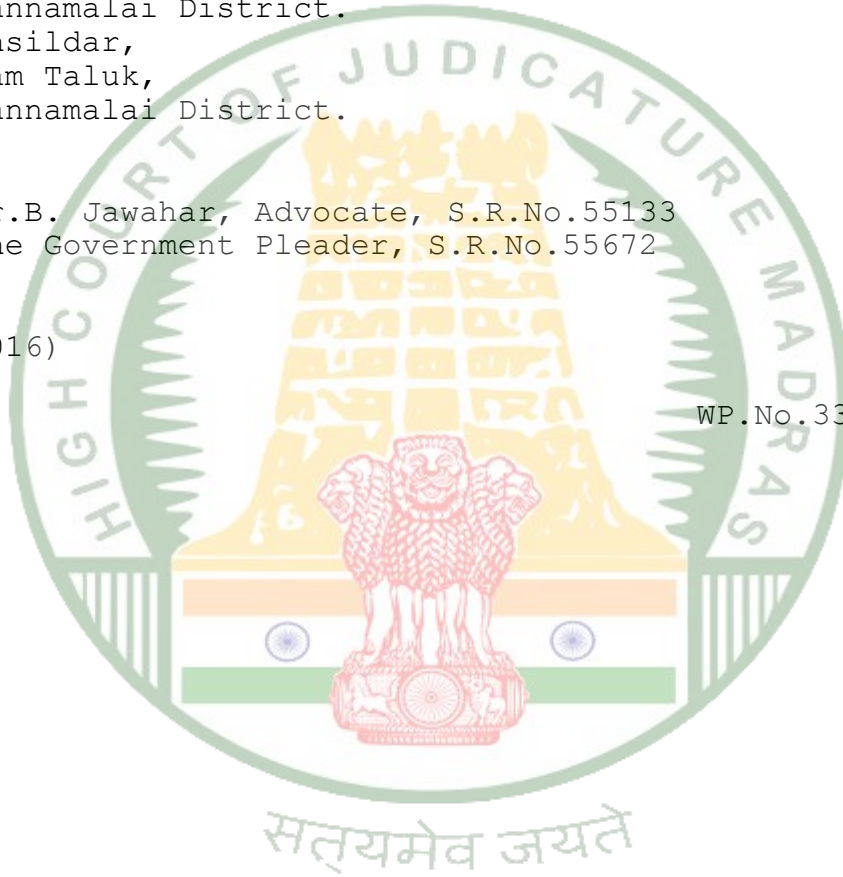
To

1. The Joint Commissioner,
H.R & C.E.Department,
Villupuram.
2. The Assistant Commissioner,
H.R. & C.E.Department,
Tiruvannamalai.
3. Arulmigu Mariamman Temple,
Rep.by fit Person,
Eraiyur Village, Chengam Taluk,
Tiruvannamalai District.
4. The Tahsildar,
Chengam Taluk,
Tiruvannamalai District.

+1cc to Mr.B. Jawahar, Advocate, S.R.No.55133
+1cc to the Government Pleader, S.R.No.55672

SM(CO)
EU(1/11/2016)

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